



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2871

14

In re Application of

Atty. Docket

MARK T. JOHNSON ET AL

PHN 16,952

Serial No.: 09/778,131

Art Unit: 2871

Filed: February 6, 2001

Examiner: A. SCHECHTER

Title: DISPLAY DEVICE

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

LETTER

In response to the Decision on Petition mailed April 3, 2003, and with respect to the Notice Of Abandonment mailed May 31, 2002, Applicants respectfully request reconsideration in that there was no abandonment in fact.

In particular, Applicants sent the Issue Fee Transmittal form PTOL-85B authorizing payment of the Issue Fee from Applicants' deposit account with a Certificate of Mailing dated April 30, 2002 (see copy enclosed). This Issue Fee Transmittal form was duly received by the U.S.P.T.O. on May 7, 2002, as shown by the enclosed copy of our Postcard Receipt. Since the Issue Fee authorization was sent prior to the expiration of the 3-month period from the Notice of Allowance, dated January 31, 2002 the issue fee was timely paid.

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SEP 23 2004

Office of Patent Publications
Director's Office

The Decision on Petition states that a copy of the postcard receipt did not accompany the previous petition mailed June 20, 2002. Applicants respectfully believe that this letter satisfies the requirements under 37 CFR 1.10.

Further enclosed herewith please find copies of the PTO 1595 Recordation Form Cover Sheet and Assignment form also submitted with the Issue Fee Transmittal on April 30, 2002.

In view of the above, Applicants contend that there was no abandonment in fact and respectfully request that this application be passed to issue.

Respectfully submitted,

By  4/5/03

Aaron Waxler, Reg. 48,027
Agent

CERTIFICATE OF MAILING

It is hereby certified that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to:

COMMISSIONER FOR PATENTS
Washington, D.C. 20231

On April 16, 2003
By Bennett James



UNITED STATES PATENT AND TRADEMARK OFFICE



Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

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Director's Office
Office of Patent Publication

CORPORATE PATENT COUNSEL,
U S PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

In re Application of :
Mark T. Johnson, et al. : DECISION ON PETITION
Application No. 09/778,131 :
Filed: February 6, 2001 :
Attorney Docket No. PHN-16,952A :

03 APR - 7 AM 8:23

This is a decision on the Letter, received in the United States Patent and Trademark Office (USPTO) on June 26, 2002, which is being treated as a Petition To Withdraw Holding Of Abandonment in the above-identified application.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely pay the issue fee as required in the NOTICE OF ALLOWANCE AND FEE(S) DUE, mailed January 31, 2002, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed May 31, 2002.

Petitioner states that the Applicants sent in the Issue Fee Transmittal form PTOL-85B authorizing payment of the Issue Fee from Applicant's deposit account with a Certificate of Mailing date April 30, 2002. Further, that the Issue Fee Transmittal form was received by the USPTO on May 7, 2002, as shown by the enclosed copy of the postcard receipt. In support of this assertion, Petitioner has submitted a copy of the Issue Fee Transmittal. The copy of the postcard receipt did not accompany the petition.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

- MPEP 503 (postcard receipt as *prima facie* evidence)
- Certificate of Mailing under 37 CFR 1.8(b)
- "Express Mail" Mailing under 37 CFR 1.10

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CLERK	PC APR 09 2003	
SECRETARY	4/11/03	BJ
ATTORNEY	4/14/02	Am

37 CFR 1.8(b) requires that the petitioner provides that (1) the United States Patent and Trademark Office must be promptly informed of the previous timely mailing, (2) a copy of the previously mailed correspondence with certificate of mailing thereon must be submitted, and (3) include a statement which attests to the previous timely mailing

Consequently, 37 CFR 1.8(b) is not applicable to the circumstances of the petitioner's mailing via certificate of mailing, in that the petitioner did not include an attesting statement.

MPEP 503 is not applicable, since a copy of the postcard receipt was never received.

Also, the Petitioners copy of the Issue Fee Transmittal reveals that the Deposit Account Number was omitted.

The rules as amended provided a safely mechanism where it is clear that an applicant intended to pay the issue fee. In this regard, 37 CFR 1.311(b)(1) and (b)(2) provides that, where an applicant intends to pay the issue fee by submission of either an incorrect fee or a completed Office-provided issue fee transmittal form (where no issue fee has been submitted), a general authorization to pay fees or a specific authorization to pay the issue, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct fee.

Unfortunately, the application file does not reveal that an authorization, which can be construed as a general authorization to charge any required fees or specifically the issue fee, was ever provided.

In view of the petitioner non-compliance with 37 CFR 1.8(b), MPEP 503 and a general authorization to charge the issue fee was not provided, the holding of abandonment cannot be withdrawn.

Petitioner should note the new rules pertaining to authorizations for issue fee payment effective November 7, 2000. Note 65 FR 57024, September 20, 2000, and 37 CFR 1.311¹.

The petitioner should consider petitioning the Commissioner as follows:

File a petition for Revival of Abandoned Application or Lapsed Patent under CFR § 1.137 (a) or (b).

■ Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must include the following:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

■ Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: 703-308-6916
Attn.: Office of Petitions

By hand: Crystal Plaza Four, Rm 3C23
2201 South Park Place
Arlington, VA

Telephone inquires concerning this matter may be directed to the Office of Petitions at 703-305-9282.

Thomas E. Hawkins

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

¹ § 1.311 Notice of Allowance

(b) An authorization to charge the issue fee or other post-allowance fees set forth in § 1.18 to a deposit account may be filed in an individual application only after mailing of the notice of allowance. The submission of either of the following after the mailing of a notice of allowance will operate as a request to charge the correct issue fee to any deposit account identified in a previously filed authorization to charge fee:

- (1) An incorrect issue fee; or
- (2) A completed Office-provided issue fee transmittal form (where no issue fee has been submitted).

[47 FR 41279, Sept. 17, 1982, effective Oct. 1, 1982; para. (b) revised, 65 FR 54604, Sept 8, 2000, effective Nov. 7, 2000; revised, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000]

PART B - FEE(S) TRANSMITTAL

Complete and mail this form, together with applicable fee(s), to:

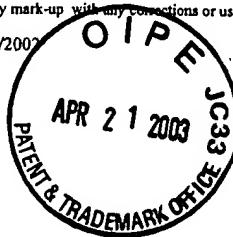
Box ISSUE FEE
Assistant Commissioner for Patents
Washington, D.C. 20231

MAILING INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590 01/31/2002

Corporate Patent Counsel, U.S.
 Philips Corporation
 580 White Plains Road
 Tarrytown, NY 10591



Note: The certificate of mailing below can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

Certificate of Mailing
 I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

G. LAMPRECHT	(Depositor's name)
<i>G. Lamprecht</i>	
04/13/03	
(Signature)	
(Date)	

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,131	02/06/2001	Mark T. Johnson	PHN 16,952A	9848

TITLE OF INVENTION: LCD IN WHICH THE TRANSPARENT ELECTRODE OF A PIXEL IS COATED WITH A CONDUCTING MATERIAL TO EQUALIZE ITS ELECTRODE WORK FUNCTION WITH THAT OF ANOTHER ELECTRODE TO PREVENT FLICKER

TOTAL CLAIMS	APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
12	nonprovisional	NO	\$1280	\$300	\$1580	04/30/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
SCHECHTER, ANDREW M	2871	349-122000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

AARON WAXLER

1 _____
 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

KONINKLIJKE PHILIPS ELECTRONICS N.V. THE EINDHOVEN, THE NETHERLANDS

Please check the appropriate assignee category or categories (will not be printed on the patent) individual corporation or other private group entity government

4a. The following fee(s) are enclosed:

4b. Payment of Fee(s):

Issue Fee
 Publication Fee
 Advance Order - # of Copies _____

A check in the amount of the fee(s) is enclosed.

Payment by credit card. Form PTO-2038 is attached.

The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment to Deposit Account Number _____ (enclose an extra copy of this form)

The COMMISSIONER OF PATENTS AND TRADEMARKS is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

4/21/02

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, United States Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington, D.C. 20231

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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TRANSMIT THIS FORM WITH FEE(S)

Docket #N16952A



Form PTO 1595
(Rev. 6-93)

RECORDATION FORM COVER SHEET
PATENTS ONLY

U.S. Dept. of Commerce
Patent and Trademark Office

To the Commissioner for PATENT & TRADEMARK OFFICE Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):
U.S. PHILIPS CORPORATION

Additional name(s) of conveying party(ies) attached?
Yes No

3. Nature of conveyance:

Assignment Merger
 Security Agreement Change of Terms
 Other

Execution Date: APRIL 9, 2002

2. Name and address of receiving party(ies):

Name: KONINKLIJKE PHILIPS ELECTRONICS N.V.
Street Address: GROENEWOUDSEWEG 1
City: 5621 BA EINDHOVEN
Country: THE NETHERLANDS

Additional name(s) & address(es) attached?

Yes No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application, is

A. Patent Application No.(s)

09/778,131

Additional numbers attached?

B. Patent No.(s)

No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
Street Address: 580 WHITE PLAINS ROAD
City: TARRYTOWN State: NY Zip: 10591

6. Total number of applications and patents involved:

1

7. Total fee (37 CFR 3.41) ... \$40.00

Enclosed Authorized to Deposit Account

8. Deposit Account Number: 14-1270

(Attach duplicate copy of this page paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Aaron Waxler, Reg. No. 48,027
Name of Person Signing

Signature

4/29/02
Date

Total number of pages including cover sheet, attachments, and document: 2

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

APP 30 2002

ASSIGNMENT

Docket No. **PHN 16952A**

U.S. PHILIPS CORPORATION, a Delaware Corporation having an office at 1251 Avenue of the Americas New York, NY 10020, in consideration of one dollar and other good and valuable consideration, the receipt of which is hereby acknowledged, hereby sells, assigns, and transfers the entire right, title, and interest in the following patent application to **KONINKLIJKE PHILIPS ELECTRONICS, N.V.**, having a place of business at Groenewoudseweg 1, 5621 BA Eindhoven, The Netherlands, its successors, assigns, and legal representatives, including any nominees (collectively the "Assignee"):

Application No.: 09/778,131

Filing Date: FEBRUARY 6, 2001

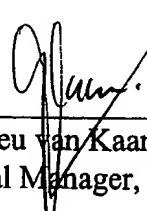
including all divisions, continuations, reissues, and extensions, and all patents granted on these applications.

The Assignor will provide its cooperation to enable the Assignee to enjoy the foregoing right, title, and interest to the fullest extent. Upon request of and at the expense of the Assignee, Assignor agrees to execute all papers, take all rightful oaths, testify in all legal proceedings including patent prosecutorial actions and infringement actions, and do all other such acts which may be necessary, desirable, or convenient for securing and maintaining patents on the foregoing invention or for perfecting title thereto in the Assignee. Assignor authorizes and requests that these patents be issued to the Assignee.

Assignor certifies that it has the full right to convey the above rights.

Dated: **9 April 2002**

U.S. PHILIPS CORPORATION

By 

Matthieu van Kaam

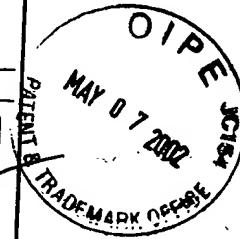
General Manager, IP&S-US



DOCKET NO. D169521A1 DIV. W/EXL SER. NO. 09/228,131

PLEASE DATE STAMP AND RETURN TO
ACKNOWLEDGE RECEIPT OF NOTED DOCUMENTS

Application	<input type="checkbox"/>	Amendment.....	<input type="checkbox"/>
_____ Pages of		Issue Fee.....	<input checked="" type="checkbox"/>
spec., claims & abs.		Notice of Appeal.....	<input type="checkbox"/>
Con. Doc.....	<input type="checkbox"/>	Extension.....	<input type="checkbox"/>
Drawings	Inf. <input type="checkbox"/>	Mailing Cert.....	<input checked="" type="checkbox"/>
No. Sh.....	For. <input type="checkbox"/>	Assignment.....	<input type="checkbox"/>
Power of Att.....	<input type="checkbox"/>	Decl. - signed	<input type="checkbox"/>
MLG. Date <u>4/30/02</u>		- unsigned	<input type="checkbox"/>



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